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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/724,330

11/26/2003

Ronald A. Katz

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9987

7590

06/01/2006

Telebuyer, LLC

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EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,330

Applicant(s)

KATZ, RONALD A.

Examiner

Stella L. Woo

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-49 is/are pending in the application.
- 4a) Of the above claim(s) 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/26/05; 05/10/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17-48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 17 recites “identifying select data including dynamic video and text data relating to the vendor and then providing the dynamic video and text data to said active buyer responsive to said commercial transaction data” (lines 12-15). However, lines 6-7 of claim 17 already recite a step in which dynamic video data from the vendor is provided to the buyer. Applicant’s specification fails to provide support for an additional step of providing identified dynamic video and text to the active buyer (lines 12-15) after having already provided dynamic video data to a buyer (lines 6-7).

Claim 17 also recites “selectively routing the active buyer to another distinct vendor based on the request data” (lines 15-16). However, there is no

description of such selective routing to another vendor after providing identified video and text to the active buyer.

Claim 33 similarly recites the above subject matter, not supported by the specification.

Should the new matter be removed from claims 17 and 33, the following rejections would apply.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-29, 33-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,450,123) in view of Grady et al. (US 5,712,906, hereinafter "Grady").

Smith discloses a method for selectively accomplishing electronic communication between members of plural groups, including at least one potential buyer (caller at video station 1) and at least one vendor (agent at station 2), at remote sites (stations are coupled via PSTN 3), via commercial transaction communication control system (see Figures 1 and 2), comprising the steps of:

accessing said system (system can be accessed via computer 5; Figure 1);
receiving and storing dynamic video data from a vendor (vendor-supplied video images are stored in a video source and database 6, and a selected video image is provided to the caller; col. 2, lines 65-68; col. 5, line 1 - col. 6, line 14);
storing data associated with an active buyer including buyer identification data and commercial transaction data (service parameters stored in processor 9, 11 or 22 include a caller's telephone number (ANI) and account type; col. 4, lines 2-7; col. 5, lines 1-5, 19-22); and
selectively processing the commercial transaction data by first identifying select data and then providing the dynamic video and text to said active buyer (based on the caller's account type, an appropriate video message from video source 6 is provided to the caller; col. 5, lines 17-37; a video message can include text, col. 6, lines 45-49).

Smith differs from claims 17 and 33 in that it does not specify text communications between the vendor and buyer. However, Grady, from the same field of endeavor, teaches the desirability of providing text communications (email) between terminals (col. 11, lines 46-47) in addition to video and multimedia communication. It would have been obvious to an artisan of ordinary skill to provide for text communications, as taught by Grady, between the caller and agent stations of Smith in order to provide an additional means of communication.

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Regarding claims 18-19, 22-24, Smith provides for a camera at each videophone station to provide direct, point-to-point video communication (col. 4, lines 24-28).

Regarding claims 20, 25, in Smith, the video image can include a dynamic graph associated with the vendor's company (col. 6, lines 44-49).

Regarding claims 21, 33-41, Grady teaches the multi-media presentation as including still images and plain text (col. 1, lines 35-38; col. 5, lines 8-9).

Regarding claims 26, 42, Smith provides for real-time audio communication via videophone stations (col. 3, lines 5-19).

Regarding claim 27-29, 43-45, Smith provides for the caller entering a service code or real-time input to select a desired video source signal (col. 4, lines 45-48, 62-66; col. 5, lines 7-22).

5. Claims 30-32 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Grady, as applied to claims 27 and 43 above, and further in view of Brown et al. (US 4,972,318, hereinafter "Brown").

The combination of Smith and Grady differs from claims 30 and 46 in that it does not teach the use of EDI data. However, since Smith relates to a sales and ordering system (Smith, col. 2, lines 58-68), and Brown teaches the well known use of EDI to communicate transactional information (col. 1, lines 33-48), it would have been obvious to an artisan of ordinary skill to incorporate such use of EDI, as taught by Brown, within the combination of Smith and

Grady in order to allow for product ordering using EDI data, as used by vendors and suppliers.

Regarding claims 31-32 and 47-48, Brown teaches the order system being combined with inventory control (Figures 2 and 6(d)) and provides notification to the buyer when the desired product is out-of-stock (col. 9, lines 39-42).

Response to Arguments

6. Applicant's arguments filed December 9, 2005 have been fully considered but they are not persuasive.

Applicant has amended claims 17 and 33 to indicate that video data relating to a vendor identified before it is provided to a buyer and cites portions of the specification which describe the storing and provision of video data by the vendor. However, as asserted in the above rejection, the specification fails to describe a second provision of select video data to a buyer (lines 12-15) taking place after video data from the vendor has already been provided (lines 6-7). Moreover, the specification does not describe "selectively routing the active buyer to another distinct vendor based on the request data" (lines 15-16) after having twice provided video and text to a buyer.

Applicant's arguments regarding the rejections under 35 USC 103 (a) fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out

how the language of the claims patentably distinguishes them from the references.

Conclusion

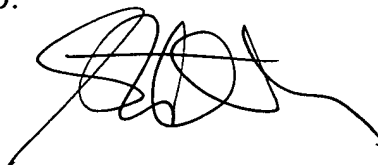
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Stella L. Woo', with a long horizontal line extending to the right.

Stella L. Woo
Primary Examiner
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